

IN THE COURT OF COMMISSIONER SANTHAL PARGANA
DIVISION, DUMKA

R.M.R. No. – 16/2017-18

Binod Mahto ----- Petitioner

-: Versus :-

Most. Fuleshwari Devi & Others ----- O.Ps.

23/5/2022

ORDER

This instant revision has been filed against the order dated – 26.02.2014 passed by the Settlement Officer, Dumka in Settlement Appeal No. – 12/2011.

Learned counsel for the petitioner submitted that the land J.B. No. – 3 of Mouza – Dudhani No. – 50, and J.B. No. – 3 of Mouza – Dundia No. – 49, S.C. – Pargadih, P.S. – Jama, Dist. – Dumka stands recorded in the names of Chetu Mahto and Balchand Mahto, S/o Mangru Mahto and others in Gantzer's Settlement Purcha. R.T. Balchand Mahto died leaving behind his

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widow Mirchi Mahatwain without any issue, as such Mirchi Mahatwain adopted Binod Mahto (petitioner) vide registered Adoption Deed No. - 116 dated - 10.05.1990 after performing giving and taking. Petitioner acquired the status of natural born son of Mirchi Mahatwain and Balchand Mahto. The O.Ps. 1st party filed a Title Suit No. - 3 of 1997 in the Court of Subordinate Judge No. - 1 Dumka for cancellation of adoption of the petitioner. The Subordinate Judge No. - I vide his judgment and decree dated - 12.09.2002 dismissed the suit. Opposite 1st filed an appeal in the Court of District Judge Dumka registered as T.A. No. - 8 of 2004 and the then 4th A.D.J. Dumka vide his judgment and decree dated - 24.01.2004 dismissed the appeal of the Opposite 1st party.

Learned counsel submitted that petitioner continued his possession over the lands, which stands separately in the name of adoptive father Balchand Mahto and his uncle Chetu Mahto in respect of J.B. No. - 3 of Mouza - Dudhani and J.B. No. - 3 of Mouza - Dundia. After death of Mirchi Mahatwain Opposite 1st party filed the Objection Case No. - 1/98 and 2/98 against the record of right of Current J.B. No. - 23 of Mouza -

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Dudhani and J.B. No. - 8 of Mouza - Dundia. The petitioner put forwarded his claim before the A.S.O. Dumka but he did not consider the claim of the petitioner, rejected the claim of the petitioner. Petitioner preferred appeal before S.O. Dumka vide Settlement Appeal No. - 12/11 and 11/11 against the order of A.S.O. Dumka but the Settlement Officer dismissed the aforesaid appeal with the observation Mouza under Jama Block has been published made in the Gazette. The order of the Settlement Officer is wholly preserve and unfairable under law, hence pray for set aside the order of courts below and direct the Settlement Authority to record the name of this petitioners in Column - 2 and 9 of Current J.B. No. - 23 of Mouza - Dudhani and J.B. No. - 49 of Mouza - Dundia.

Opposite parties are absent after proper service of notice. No one appeared on behalf of the O.Ps. Hence for the ends of justice heard petitioner.

Heard the learned lawyer of petitioner and perusal of documents available on record I find the lands J.B. No. -

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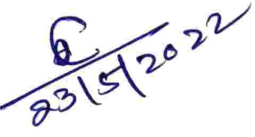
3 of Mouza - Dudhani No. - 50, S.C. - Pargadih and J.B. No. - 3 of
Mouza - Dundia No. - 49, Anchal - Jama, Dist. - Dumka stands
recorded in the names of Chetu Mahto and Balchand Mahto, both
S/o Mangru Mahto and others in Gantzer's Settlement Purcha. R.T.
Balchand Mahto had no any issue, as such Mirchi Mahatwain, W/o
Balchand Mahto adopted this petitioner Binod Mahto as a son
bearing registered Adoption Deed No. - 116, dated - 10.05.1990.
The O.Ps. filed Title Suit No. - 3 of 1997 before the Court of
Subordinate Judge No. - I Dumka and T.A. No. - 3/97 in the Court
of 4th A.D.J. for cancellation of the Adoption Deed of the petitioner,
but I find the said Title Suit and Title Appeal already been
dismissed of the O.Ps and passed judgment and decree in favour of
this petitioner. I find the Assistant Settlement Officer, as well as
Settlement Officer, did not consider the claim of the petitioner and
ignore the judgment and decree of Competent Sub Judge Dumka
and also Judgment and Decree of 4th Additional District Judge and
passed impugned order. I find the subject matter in issue relating
to claim of the petitioner has already been decided by the Civil
Court, hence there remains nothing in the hands of the lower

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court to re-agitate the matter again by the court below. I find the petitioner is the legal heir of R.T. Balchand Mahto possessing the land peacefully in respect of J.B. No. - 23 of Mouza - Dudhani and J.B. No. - 8 of Mouza - Dundia with payment of rent. The claim of the petitioner is genuine and legal in the eye of law.

Dictated and Corrected by me.


20/5/2022
Commissioner
S.P. Division, Dumka.


23/5/2022
Commissioner
S.P. Division, Dumka.